

## WARNER NORCROSS &amp; JUDD LLP

ATTORNEYS AT LAW

900 OLD KENT BUILDING  
111 LYON STREET, N.W.  
GRAND RAPIDS, MICHIGAN 49503-2487  
TELEPHONE (616) 752-2000  
FAX (616) 752-2500

EUGENE E. SMARY

DIRECT DIAL NUMBER  
(616) 752-2129  
SMARYEE@WNJ.COM

June 4, 1998

US EPA RECORDS CENTER REGION 5



469983

Ms. Kathleen Schnieders (C14J)  
Assistant Regional Counsel  
Office of Regional Counsel  
United States Environmental Protection  
Agency  
Region V  
77 West Jackson Boulevard  
Chicago, IL 60604-3590

Re: Access Agreement with Decker Manufacturing Corporation

Dear Ms. Schnieders:

I have just received a letter from Michael Caldwell addressed to you. The attached access agreement is the document that we have discussed. It is unacceptable to my clients, and based on our conversation, I gather it is unacceptable to U.S. EPA as well. Based on Mr. Caldwell's letter, I see no useful purpose in having a conference call. His client continues to insist on acting like a "simple property owner", conveniently ignoring the fact that it is the recipient of a Unilateral Administrative Order and is not entitled to any preferences. Under the circumstances, some of the sarcasm contained in the letter is obviously inappropriate. It is not a matter of being "my way" or anyone's "highway". It is simply a matter of the need of two PRPs to obtain access from another PRP which has attempted to shield itself by setting up a new corporate subsidiary to undertake conduct allegedly designed to comply with the UAO. This approach is in violation of the UAO, does not constitute compliance, and indeed creates an inappropriate and unnecessary hurdle that can only be overcome by the issuance of an Order from EPA requiring Decker and its subsidiary to provide EPA, my clients, and their contractors unlimited, unrestricted and unconditional access to the property for all conduct reasonably necessary to implement the UAO. The statement in Mr. Caldwell's letter that his client would "accept and comply with any order" that "took into consideration the concerns" identified in his letter is inappropriate. One would hope that Decker would comply with the unconditional order I anticipate EPA issuing.

Sincerely,

Eugene E. Smary

lap

cc: Frank Biros, Esq.  
Michael Caldwell, Esq.  
Cooper Industries  
Corning, Inc.

#315607

06/04/98

**WARNER NORCROSS & JUDD LLP**  
ATTORNEYS AT LAW900 OLD KENT BUILDING  
111 LYON STREET, N.W.  
GRAND RAPIDS, MICHIGAN 49503-2487MAIN SWITCHBOARD  
(616) 752-2000FAX NUMBER  
(616) 752-2500  
or 752-2501FAX OPERATOR  
(616) 752-2240

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**FAX COVER SHEET**☐ URGENT  
☐ CONFIDENTIALDATE: JUNE 5, 1998TOTAL PAGES: 2TO: KATHLEEN SCHNIEDERS ✓FAX NUMBER: 312-886-0747COMPANY: U.S. EPA

TELEPHONE: \_\_\_\_\_

FROM: EUGENE E. SMARY  
WARNER NORCROSS & JUDD LLPDIRECT DIAL: (616) 752-2129

REMARKS: Ms. Schnieders, the letter that you received last evening via fax had an incorrect date. Please accept my apologies for any inconvenience and replace your file copy with the attached. Thank you.

Leslie Passeno, Secretary to Eugene E. Smary

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**CONFIDENTIALITY NOTICE:** The attached information is intended ONLY for the named addressee. It may contain confidential or privileged communications. If you receive this fax in error, you are requested to destroy it and to contact the sender.

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6/1/98**WARNER NORCROSS & JUDD LLP**

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800 OLD KENT BUILDING

111 LYON STREET, N.W.

GRAND RAPIDS, MICHIGAN 49503-2487

TELEPHONE (616) 752-2000

FAX (616) 752-2500

EUGENE E. SMARY

DIRECT DIAL NUMBER

(616) 752-2129

SMARYEE@wnj.com

May 26, 1998

Ms. Kathleen Schnieders (C14J)  
Assistant Regional Counsel  
Office of Regional Counsel  
United States Environmental Protection  
Agency  
Region V  
77 West Jackson Boulevard  
Chicago, IL 60604-3590

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Sincerely,

  
Eugene E. Smary

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cc: Frank Biros, Esq.  
Michael Caldwell, Esq.  
Cooper Industries  
Corning, Inc.

#015607

E.I.  
05/24/98**WARNER NORCROSS & JUDD LLP**

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